EXHIBIT 23

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

NATIONAL ASSOCIATION FOR GUN RIGHTS, and SUSAN KAREN GOLDMAN,

Plaintiffs,

v.

CITY OF HIGHLAND PARK, ILLINOIS,

Defendant.

No. 1:22-cv-04774

Honorable Harry D. Leinenweber

Honorable Jeffrey T. Gilbert

REBUTTAL DECLARATION OF RYAN BUSSE

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I, Ryan Busse, declare that the following is true and correct:

- 1. I am a former senior executive in the firearms industry and the author of *Gunfight: My Battle Against the Industry that Radicalized America* (New York: PublicAffairs, 2021). I previously submitted an expert declaration in this case dated January 13, 2023 (Dkt. 45-4). My professional qualifications and compensation are set forth in that declaration.
- 2. I have been asked by counsel for Defendant the City of Highland Park, Illinois ("Highland Park") to address certain statements made in Plaintiffs' Reply In Support of Motion for Preliminary Injunction (Dkt. 81) concerning the necessity and suitability of assault weapons and large-capacity magazines ("LCMs"), as defined by Highland Park Ordinance No. 68-13, codified at Highland Park Code § 136.001 (the "Highland Park Ordinance"), for civilian self-defense.
- 3. This declaration is based on my own personal knowledge and experience, and if I am called to testify as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

REBUTTAL OPINIONS

4. It is important to understand at the outset that the Highland Park Ordinance does not prohibit all firearms. In fact, there are a significant number of firearms that are perfectly legal under the Ordinance, and they span a wide range of firearm types, including handguns, rifles, and shotguns. Rather, the Highland Park Ordinance prohibits only certain kinds of firearms—those that have specific offensive, military-like features that increase the weapon's effectiveness in combat situations (the "Assault Weapons"). **Attachment A** to this rebuttal declaration shows visually the narrow category of features and model types that are banned by the Highland Park

Ordinance. As I explained in my January 13, 2023 declaration, these features are not integral to the operation of any firearm and are not necessary for effective self-defense.

- 5. I understand that Plaintiffs have argued that the Highland Park Ordinance bans "handguns" and is therefore unconstitutional. I also understand that Plaintiffs have argued that Highland Park's Ordinance, by banning Assault Weapons and LCMs, materially interferes with Highland Park residents' ability to defend themselves. To be clear, as a factual matter, the vast majority of firearms, including the vast majority of handguns, remain legal under the Highland Park Ordinance, and these weapons provide Highland Park residents with more than ample means to defend themselves.
- 6. Despite the proliferation of LCMs in recent years, there is no firearm that requires an LCM to function as designed. By this I mean that all firearms that can accept an LCM can also accept a magazine that holds 10 or fewer rounds and still function precisely as intended. Such a firearm, if equipped with a magazine holding 10 or fewer rounds and assuming it has no other feature prohibited by the Highland Park Ordinance, would be perfectly legal under the Ordinance.
- 7. Even those handguns that are typically sold with an LCM (for example, a Glock 17) can be used with a 10-round or standard-capacity magazine, and there is no difficulty in obtaining such a compliant magazine, as I explain in more detail below. Models with 10-round or even lower capacity magazines are offered by manufacturers. And even if the model itself is not sold with a 10-round or lower capacity magazine off the shelf, manufacturers, retailers, and online sellers sell 10-round and lower capacity magazines as an accessory. I am not aware of any semiautomatic firearm sold in the United States today for which there are no 10 or fewer round magazines readily available.

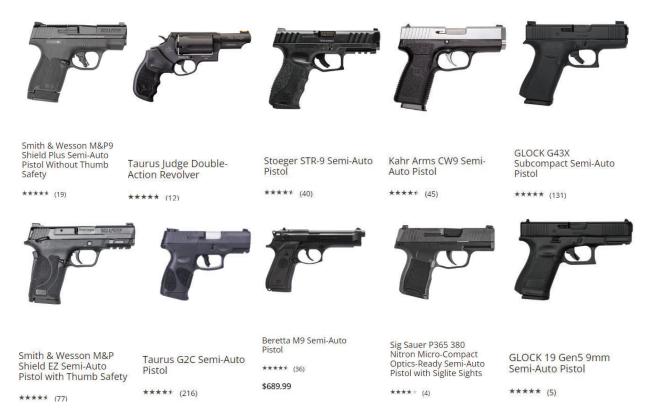
8. There are thus literally hundreds of models of handguns that remain legal under the Highland Park Ordinance. In order to illustrate the breadth of these options, I offer a sample taken from Cabela's online firearms catalog in Figure A. Cabela's is one of the nation's largest firearms retailers with stores across the country. The following list includes many of the most popular self-defense guns on the market today. The customer ratings are included to demonstrate that these are popular with consumers. Further, this list contains guns with a wide variation of characteristics, including different calibers, different sizes, domestic production versus foreign import, expense, design, men's and women's models, proven firearms with long histories, and new models just entering the market. (I included one gun that is so new it does not yet have any ratings.) Every one of these handguns is legal in Highland Park, either because it has a standard capacity of 10 or fewer rounds or because there are 10-round magazines available. This is also true for hundreds more handguns from dozens of manufacturers not reflected in Figure A.

¹ Cabela's online handgun catalog: https://www.cabelas.com/c/guns (last viewed March 5, 2023).

Figure A: Examples of Handguns Not Prohibited by the Highland Park Ordinance



Figure A: Examples of Handguns Not Prohibited by the Highland Park Ordinance (cont'd)



9. It is also important to note that any legal gun with a 10-round capacity is a very effective self-defense weapon. In fact, there are many handgun models that utilize 10-round magazines and are openly praised by industry experts and journalists as excellent self-defense options. The following is a review for the Springfield Hellcat, which is one of the handguns pictured above. The Hellcat is one of the best-selling handguns in the country and this review is offered by notable industry website TheArmoryLife.com: "10 rounds of 9mm in a microcompact is still a formidable defense." "Springfield Armory recently announced the addition of a 10-round version of the Hellcat pistol for shooters in states that require restricted magazine capacities. The new 10-round variant of the Hellcat offers a great self-defense option for owners

that live in areas with these restrictions."²

10. Glock too offers many handgun models that are not prohibited by the Highland Park Ordinance. Even the Glock 17, which is typically sold with a 17-round magazine, can be outfitted with a 10-round magazine and in that form is perfectly legal in Highland Park. In fact, there are many 10-round magazines available for Glock pistols. The following image is from one of dozens of websites that offer Glock 10-round magazines.³

Glock Gen 4 Glock 17 9mm 10-Round Factory Magazine

\$24.99

SKU: MF10117

Brand: Glock Magazines
Material: Polymer
Color: Black
UPC: 764503100178
Callber: 9mm Luger
Capacity: 10-Round
Flts: Glock 17, Glock 19, Glock 26, Glock 34, Glock 45, Kel-tec
Sub-2000/17, Kriss Vector

• Factory magazine

Quantity:

- 1 + Add to Cart

Figure B: 10-Round Magazine for Glock 17

11. There are also dozens of revolvers that are legal in Highland Park, some of which are pictured above in Figure A. Revolvers, which have 5- or 6-round magazine capacities, are considered to be highly reliable and extremely effective self-defense guns. During my years in the gun industry I regularly witnessed the most respected industry experts openly agreeing on this point. This widely held opinion is summed up in a 2022 Handguns Magazine article in

² Review of Springfield Hellcat 10-round version: https://www.thearmorylife.com/going-10-rounds-with-the-springfield-hellcat/ (last viewed February 8, 2023).

³ GunMag Warehouse listing for Glock 17 10-round magazines: https://gunmagwarehouse.com/glock-gen-4-glock-17-9mm-10-round-factory-magazine.html?queryID=69682e2bd7a4c3fee9ba8c79c3bd20dd&objectID=635&indexName=magento_default_products (last viewed March 5, 2023).

which the author notes the reasons for a well-documented recent resurgence revolver popularity for self-defense; "While a lot of the surge is due to folks purchasing small, super-light revolvers for concealed carry, sometimes overlooked is how good revolvers—particularly mid- to full-size ones—can be for home defense. Sure, they may not hold as many rounds as a 9mm semiautomatic, but they're simple to use. There are no safeties to worry about, no slides to struggle with, no difficult magazines to load, no complicated manual of arms. With a revolver you just load the cylinder, close it and pull the trigger. That's pretty much it. And if you're new to guns and haven't heard about the revolver's reliability, well it's legendary."⁴

- 12. Many of those same experts also point out that the average self-defense situation involves very few shots fired. In fact, in my experience it is generally accepted within the industry that the average self-defense situation involves three or fewer shots. This is often discussed and reinforced in articles written by respected gun industry experts. For example, the following is an excerpt from a 2015 NRA American Rifleman article on the desirability of revolvers for self-defense: "The importance of this difference in ammunition capacity is debatable. Some self-defense gurus support the idea that more is better. Others point out that most civilian situations happen so quickly, with only a few rounds fired (an average of three), that handgun capacity is a moot point."⁵
- 13. Another illustrative model is the Beretta 92 (one variation is pictured above in Figure A). The Beretta 92 has been the accepted self-defense pistol of the U.S. military for

⁴ Handguns Magazine Revolver Article: https://www.handgunsmag.com/editorial/best-revolvers-defense/386911 (Last viewed March 12, 2023)

⁵ NRA American Rifleman article on revolvers: https://www.americanrifleman.org/content/why-choose-a-wheelgun/ (last viewed February 1, 2023).

decades and is one of the most common pistols in the United States. (This pistol's military designation is the M9 and its civilian model is 92FS.) Beretta sells three versions of this pistol commercially; one is sold with a 15-round magazine and two are sold with 10-round magazines. The two 10-round options are models built to comply with common magazine-capacity regulations. Nowhere does Beretta, or any other reputable authority, claim that the 10-round versions of this pistol are unreliable or defective in any way. Neither is there any issue with increased price or less availability. The following is the Beretta website page advertising the three models of this pistol. The only difference in the models is the magazine offered. Switching this accessory between pistols is an easy and common change. Even the pistol image is the same for all three.⁶

Figure C: Model Options for Beretta-92



Model Code	J92F300CA	JS92F300	JS92F300M
Model Name	92FS	92FS	92FS
MSRP	\$ 709.00	\$ 709.00	\$ 709.00
Action	Dbl/Sngl	Dbl/Sngl	Dbl/Sngl
Caliber	9 mm	9 mm	9 mm
Rounds	10 Rounds	10 Rounds	15 Rounds

⁶ Beretta Website 92FS pistol: https://www.beretta.com/en-us/beretta-92fs/ (last viewed February 24, 2023).

14. Another illustrative example is FN's 5-SeveN pistol, which is marketed to "commercial, law enforcement and military" customers. According to the FN website, this pistol is offered with either 10- or 20-round magazines. From outward appearances there is no difference in either, and FN makes no claim regarding the 10-round option being more difficult to obtain, more expensive, or less reliable. In fact, FN markets both the 10- and 20-round versions as the ultimate "precision" pistol.⁷



Figure D: Model Options for FN's 5-SeveN Pistol

15. Shotguns are also excellent self-defense guns. Some of the best options are pump-action and almost all are legal in Highland Park. In fact, there are dozens of published articles that tout pump-action shotguns as the best self-defense firearm. One such opinion can be found in a 2020 Outdoor Life article, the subtitle of which describes an important shotgun advantage; "Shotguns are more accurate than handguns and ARs when an intruder enters your home." The article goes on to lay out other well-known advantages: "The 12-gauge pump shotgun is touted

⁷ FN Five-seveN MRD FDE website: https://fnamerica.com/products/pistols/fn-five-seven-mrd-fde/ (last viewed March 11, 2023).

as the ultimate home defender. It's far from a one-trick-pony and about as general-purpose of a firearm as you can buy" and "Once properly set up, the 12-gauge shotgun is probably the best all-around choice for the average homeowner seeking a defensive firearm."

- Among these are that they are easy to operate and are very forgiving with regards to accuracy because they spray a wide "pattern" of projectiles as opposed to a rifle such as an AR-15 that fires singular bullets. The bullets from rifles are far more deadly in targeted offensive operations and at longer ranges (from 50 to 250 yards) but shotguns are designed for defensive situations which almost always happen at short ranges below 50 yards. These are the same situations where surprise commonly leads to stress-induced inaccurate shooting, which is why the wider pattern of a shotgun is generally touted as superior.
- 17. Many of the best self-defense shotguns are designed with capacities of 5 or 6 rounds, the most famous of which is the Remington 870. In my more than 25 years in the industry, I never met anyone who disputed that the 870 pump shotgun was among the most popular and effective home defense guns of all time. In fact, many industry executives, most of whom did not work at Remington, often told me that the 870 was their personal preferred self-defense firearm.
- 18. This review of self-defense guns from the highly respected and notable industry publication Gun Digest confirms this widely held consensus in an article about the Remington 870 Home Defense model: "As plain and simple as it gets when it comes to Remington 870

⁸ Why a Shotgun is the Best option for Home Defense: https://www.outdoorlife.com/story/guns/why-a-shotgun-is-the-best-option-for-home-defense/ (last viewed March 12, 2023)

tactical shotguns, the Home Defense is a knock-out bargain. There are cheaper 870s available, but none set up to excel like this one. In particular, its 6-round tubular magazine—two more than standard 870 models—gives you more than enough firepower to handle anything outside a Hunnish siege."

19. Below is a photograph from that article of the gun described. The gun, which according to the article "excels" at self-defense, has only a 6-round capacity, cannot accept detachable large-capacity magazines, and has none of the "assault weapon" features enumerated in the Highland Park ordinance.

Figure E: Remington 870 Home Defense Shotgun



20. In addition to this Remington model, there are dozens of other highly effective self-defense shotguns that remain legal in Highland Park. The following model list, also taken from Cabela's website, is an illustration of just a small fraction of those legal models. While there are dozens of shotguns that are legal, many are designed for hunting. While those shotguns are also effective self-defense guns, here I focus on a sampling of shotguns that are specifically designed for self-defense or tactical deployment and that are legal in Highland Park.

⁹ Gun Digest review of shotguns for self-defense: https://gundigest.com/gun-reviews/shotguns/top-four-remington-870-tactical-shotgun-options (last viewed March 11, 2023).

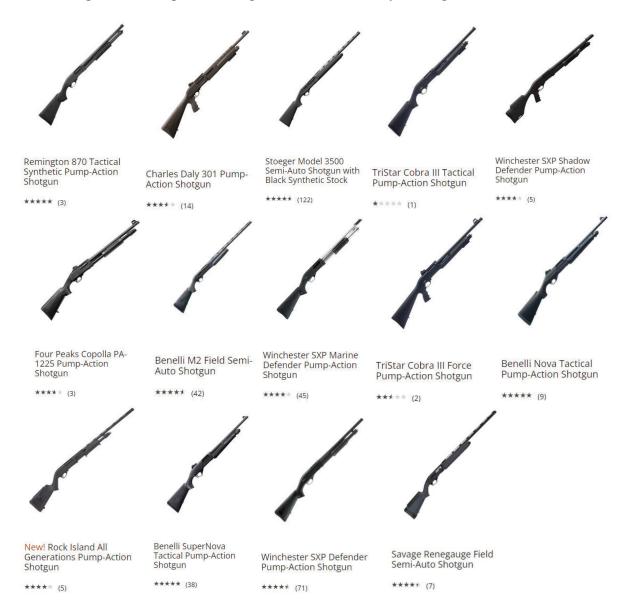


Figure F: Examples of Shotguns Not Prohibited by the Highland Park Ordinance

21. As with the handguns and shotguns discussed above, there are hundreds of rifles that remain legal in Highland Park. Like shotguns, there are hundreds of legal hunting rifles that are also effective self-defense guns. But there are also many legal rifles that are specifically designed for self-defense and tactical operations. The following listing, again from the Cabela's website, contains just a small sample of rifles that remain legal.

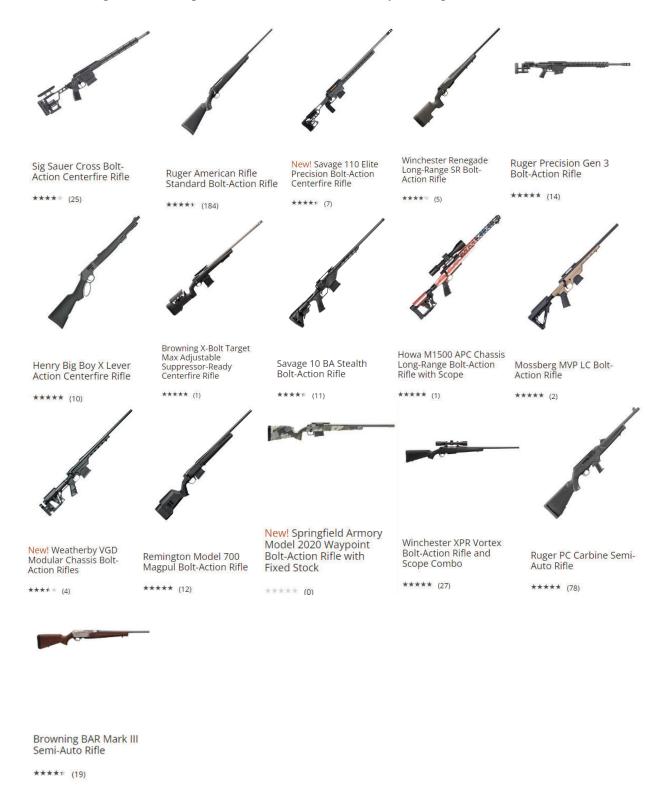


Figure G: Examples of Rifles Not Prohibited by the Highland Park Ordinance

- 22. As with handguns and shotguns, there is wide variation of legal rifles, giving customers many different options in terms of size, caliber size, expense, weight, and length.

 Most of the examples above are bolt-action rifles, but there are also some semiautomatic rifles that are legal under the Highland Park Ordinance, including the Ruger PC Carbine when equipped with a 10-round magazine (pictured above in Figure G).
- 23. As these examples show, the Highland Park Ordinance allows legal possession of a wide variety of highly effective self-defense firearms.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 13, 2023 at Kn Lizzell MT

Ryan Busse

Attachment A

Regulated Assault Weapons¹ Regulated Semiautomatic Rifles (capacity to accept large-capacity magazine plus at least one specified feature)2 **Ordinance** Regulated **Image Provision** Feature (a)(i) A pistol grip without a stock attached (a)(ii) Any feature capable of functioning as a protruding grip that can be held by the nontrigger hand

¹ Attachment A contains pictures of assault weapons regulated by Highland Park Ordinance No. 68-13, codified at Highland Park Code § 136.001. I understand from counsel that the Highland Park Ordinance was originally codified at § 134.010. For purposes of this chart, I refer to the sections of the original codification reflected in Exhibit 1 to Highland Park's opposition. *See* Dkt. 45-2, Highland Park Opp. Ex. 1, Highland Park Ordinance 68-13 (2013 codification).

² Section 134.010(A)(1)(a) defines assault weapon as any semiautomatic rifle that has the capacity to accept a large-capacity magazine, detachable or otherwise, and one or more of the following features listed in this chart.



(a)(iii)	Thumbhole stock	
(a)(iv)	A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the nontrigger hand without being burned, but excluding a slide that encloses the barrel	
(a)(v)	Muzzle brake or muzzle compensator	

	Regulated Semiautomatic Pistol or Semiautomatic Rifle (fixed magazine with capacity to accept more than 10 rounds) ³				
Ordinance Provision	Regulated Feature	Image			
(b)	Fixed magazine, capacity of more than 10 rounds of ammunition	Pictured: Mauser, C96 "Broomhandle" w/ fixed 20-round magazine (pistol)			

³ Section 134.010(A)(1)(b) defines an assault weapon as any semiautomatic pistol or any semiautomatic rifle that has a fixed magazine with the capacity to accept more than 10 rounds of ammunition.

	Regulated Semiautomatic Pistols		
(capac	(capacity to accept detachable magazine plus at least one specified feature) ⁴		
Ordinance	Regulated	Image	
Provision	Feature		
(c)(i)	Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand		
(c)(ii)	Folding stock		
(c)(ii)	Telescoping stock		

⁴ Section 134.010(A)(1)(c) defines assault weapon as any semiautomatic pistol that has the capacity to accept a detachable magazine and has one or more of the following features listed in this chart.

(c)(ii)	Thumbhole stock	
(c)(iii)	A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel	
(c)(iv)	Muzzle brake or muzzle compensator	

(c)(v)	Capacity to accept a detachable magazine at some location outside of the pistol grip	
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		Regulated Semiautomatic Shotguns (with at least one specified feature) ⁵
Ordinance Provision	Regulated Feature	Image
(d)(i)	Only a pistol grip without a stock attached	
(d)(ii)	Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand	
(d)(iii)	Folding stock	
(d)(iii)	Telescoping stock	

⁵ Section 134.010(A)(1)(d) defines assault weapon as any semiautomatic shotgun that has one or more of the following features listed in this chart.

(d)(iii)	Thumbhole stock	
(d)(iv)	Fixed magazine capacity in excess of 5 rounds	Pictured: Tavor TS12 – three fixed magazine tubes, each holding up to five 2 3/4" 12-
(d)(v)	An ability to accept a detachable magazine	gauge shells

Regulated Shotgun (with revolving cylinder) ⁶				
Ordinance Provision	Regulated Feature	Image		
(e)	A revolving cylinder	Pictured: Cobray/SWD Street Sweeper		

 6 Section 134.010(A)(1)(e) defines assault weapon as any shotgun with a revolving cylinder.

Regulated Assault Weapons				
	I = -	(specific models) ⁷		
Ordinance	Regulated	Image		
Provision	Firearm	Rifles		
(g)(i)(A)	AK	Killes		
(8)(1)(1)	AK	"AK" is a general term for a class of rifles based on the original Kalashnikov-		
		designed AK-47, an example of which is pictured here.		
(g)(i)(A)	AKM			
(g)(i)(A)	AKS			

⁷ Section 134.010(A)(1)(g) defines assault weapons to include the specific models listed in this chart (including any copies or duplicates thereof).



(g)(i)(A)	MAK90	
(g)(i)(A)	MISR	
(g)(i)(A)	NHM90 (with thumbhole stock)	
(g)(i)(A)	NHM91	
(g)(i)(A)	SA 85	

(g)(i)(A)	SA 93	
(g)(i)(A)		
(g)(i)(A)	VEPR	
(g)(i)(B)	AR-10	
		Pictured: DPMS LR-243 AR-10
(g)(i)(C)	AR-15	
		Pictured: Colt LE6920 Series AR-15, 16" barrel, with collapsible stock, vertical fore
(a)(i)(C)	Dughmagtan	grip, and flash suppressor
(g)(i)(C)	Bushmaster XM15	
		Picutred: Bushmaster XM15-E2S, 16" barrel, with collapsible stock and flash suppressor

(g)(i)(C)	Armalite M-15	
(g)(i)(C)	Olympic Arms PCR	
(g)(i)(D)	AR70	
		Pictured: Beretta AR70 with flash suppressor
(g)(i)(E)	Calico Liberty	Pictured: Calico Liberty Series 50 Carbine with 50 round magazine

(g)(i)(F)	Dragunov Sniper Rifle or Dragunov SVU	
(g)(i)(G)	Fabrique Nationale FN/FAL	
(g)(i)(G)	Fabrique Nationale FN/LAR	
(g)(i)(G)	Fabrique Nationale FNC	
(g)(i)(H)	Hi-Point Carbine	Pictured: Hi-Point Carbine with vertical foregrip

(g)(i)(I)	HK-91	
(g)(i)(I)	HK-93	
(g)(i)(I)	HK-94	
(g)(i)(I)	HK-PSG-1	

(g)(i)(J)	Kel-Tec Sub Rifle	
(g)(i)(K)	Saiga	Pictured: Kel-Tec Sub-2000 (fully extended and folded for storage)
		Pictured: IZHMASH Saiga 12S
(g)(i)(L)	SAR-8	
(g)(i)(L)	SAR-4800	

(g)(i)(M)	SKS with detachable magazine	
(g)(i)(N)	SLG 95	
(g)(i)(O)	SLR 95	
(g)(i)(O)	SLR 96	
(g)(i)(P)	Steyr AUG	

(g)(i)(Q)	Sturm, Ruger & Co. Mini-14	
(g)(i)(R)	Tavor	Pictured: Tavor TAR-21
(g)(i)(S)	Thompson 1927	
(g)(i)(S)	Thompson M1	
(g)(i)(S)	Thompson 1927 Commando	

(g)(i)(T)	Uzi (all rifle types)	
(g)(i)(T)	Galil	Pictured: Uzi Model A Carbine
(g)(i)(T)	Uzi Sporter	
(g)(i)(T)	Galil Sporter	
(g)(i)(T)	Galil Sniper Rifle (Galatz)	

		Pistols
(g)(ii)(A)	Calico M-110	
(g)(ii)(B)	MAC-10	Pictured: Cobray M-10
(g)(ii)(B)	MAC-11	Pictured: Cobray M-11/Nine
(g)(ii)(B)	MPA3	Pictured: MPA30DMG







		Shotguns
(g)(iii)(A)	Armscor 30 BG	
(g)(iii)(B)	SPAS 12	
(g)(iii)(B)	LAW-12	
(g)(iii)(C)	Striker 12	
(g)(iii)(D)	Streetsweeper	